



Department of Justice

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(202) 514-2007
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ATTORNEY GENERAL SIGNS ANTITRUST ASSISTANCE AGREEMENT WITH AUSTRALIA

WASHINGTON, D.C. -- Attorney General Janet Reno today signed an antitrust mutual assistance agreement with Australia that will permit the two countries to exchange evidence and assist each other's antitrust investigative efforts. The agreement, also signed by Federal Trade Commission Chairman Robert Pitofsky and Australian Treasurer Peter Costello, is the first agreement to be signed under the International Antitrust Enforcement Assistance Act of 1994. Joel I. Klein, Assistant Attorney General in charge of the Antitrust Division, Allan Fels, Chairperson of the Australian Competition & Consumer Commission, and Australian Ambassador Andrew Peacock, also participated in the signing ceremony.

Under the agreement, which was published for public comment in April 1997, U.S. and Australian antitrust agencies can exchange evidence on a reciprocal basis for use in antitrust enforcement, and assist each other in obtaining evidence located in the other's country. The agreement assures the protection of all confidential information exchanged by the two countries.

"This agreement is a significant step toward improving antitrust enforcement in today's global economy," said Attorney General Janet Reno. "In antitrust issues, as in many other areas of law enforcement, bilateral mutual assistance agreements play a crucial role in protecting U.S. citizens and enforcing U.S. laws."

Australia is an important U.S. trading and investment partner. Two-way trade increased significantly in 1998, to a total of more than \$18 billion, and U.S. foreign direct investment in

Australia currently exceeds \$26 billion. The new agreement builds on a U.S.-Australia antitrust cooperation agreement signed in 1982, and on a close relationship that has developed over the years between the Department, the Federal Trade Commission, and the Australian Competition & Consumer Commission (ACCC).

In mid-1994, the Justice Department asked Congress to enact the International Antitrust Enforcement Assistance Act in order to improve the United States' ability to obtain foreign-located evidence in antitrust matters. Congress responded quickly, on a bipartisan basis, and President Clinton signed the Act into law in late 1994.

“Successful prosecution of participants in international cartels has been high on the Antitrust Division’s agenda for the past several years,” said Joel I. Klein. “While we have been very successful in many cases --over \$440 million in criminal fines have been imposed on international cartel participants in the last two years alone--in some instances, our ability to successfully prosecute illegal cartel behavior has been inhibited because we lacked mutual assistance agreements with other countries.”

“This new agreement will greatly assist the Department’s law enforcement activities, and we look forward to strengthening our partnership with the ACCC in the fight against international cartels and other anticompetitive conduct,” Klein added.

Highlights of the new agreement include:

- The U.S. and Australia agree to assist one another and to cooperate on a reciprocal basis in providing or obtaining antitrust evidence, through a variety of means, pursuant to their respective mutual assistance legislation, and regardless of whether the conduct underlying a request would violate the laws of the requested party. The agreement provides for assistance in both civil and criminal antitrust matters.

- Evidence obtained under the proposed agreement would be used only for antitrust enforcement purposes, except in certain narrow circumstances consistent with the Act. Before turning over evidence, a party must determine if executing the request would be consistent with its public interest. The agreement also provides that nothing in it “compels a person to provide antitrust evidence in violation of any legally applicable right or privilege.”
- All Australian requests for assistance will be channeled through the Department, as required by the Act. However, requests may be executed by either the Department or the FTC (or both), as appropriate. Both the Department and the FTC may make requests for assistance directly to the ACCC, and U.S. requests will be executed by the ACCC, the Attorney General’s Department, or both, as appropriate.
- Reflecting Congress’ concern with maintaining the confidentiality of sensitive business information that might be exchanged pursuant to the Act, the agreement contains strict confidentiality requirements that will protect such information.

Klein said that today’s agreement will serve as a model for similar bilateral agreements with major U.S. trading partners around the world. The agreement becomes effective after publication in the Federal Register and consideration by the Australian Parliament.

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